

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 BILL LIETZKE,

4 Plaintiff,

5 v.

6 CITY OF MONTGOMERY, et. al.

7 Defendants.
8

Case No.: 3:19-cv-00570-MMD-WGC

**Report & Recommendation of
United States Magistrate Judge**

Re: ECF No. 1, 1-1

9 This Report and Recommendation is made to the Honorable Miranda M. Du, United States
10 District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C.
11 § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

12 Plaintiff has filed an application to proceed in forma pauperis (IFP) (ECF No. 1) (which he
13 has not signed) and pro se complaint (ECF No. 1-1). Plaintiff, who is a resident of Alabama, sues
14 the City of Montgomery and Police Chief Kevin Murphy. His complaint alleges that on April 28,
15 2017, City of Montgomery police officers detained him unlawfully. The complaint contains
16 minimal facts otherwise, and instead inserts profane phrases throughout.

17 Plaintiff has filed numerous applications to proceed IFP and complaints in this district, and
18 others, including the District of Idaho, Eastern District of California, the Northern District of
19 California, the District of Oregon, the District of Maine, the District of Montana, the Eastern
20 District of Michigan, as well as the Middle District of Alabama, against Greyhound Lines, Inc., as
21 well as the City of Montgomery, Alabama, and Kevin Murphy, and others. (*See e.g., Lietzke v.*
22 *County of Montgomery*, No. 06-1410-ST, 2007 WL 201054 (D. Or. Jan. 22, 2007); *Lietzke v.*
23 *County of Montgomery*, No. 1:12-cv-00145-EJL-CWD, 2012 WL 5449623 (D. Id. May. 29, 2012);

1 2:13-cv-01023-JCM-GWF; 3:14-cv-00177-RCJ-WGC; 3:14-cv-00371-MMD-VPC; 3:14-cv-
2 00176-MMD-VPC; 3:14-cv-00197-MMD-WGC; 2:16-cv-02818-RFB-NJK; 3:16-cv-00735-
3 MMD-WGC; 3:17-cv-00040-MMD-WGC; *Lietzke v. City of Montgomery*, 2018 WL 4677837
4 (M.D. Al. Aug. 8, 2018, noting cases; *Lietzke v. City of Montgomery*, No. 2:18-cv-02393-KJM-
5 KJN PS, 2018 WL 4699978 (E.D. Cal. Oct. 1, 2018); *Lietzke v. Greyhound Lines, Inc.*, Case No.
6 18-cv-06197-DMR, 2019 WL 144586 (N.D. Cal. Jan. 9, 2019); 3:19-cv-00559-MMD-WGC.)

7 These actions have been dismissed or transferred for defects in personal jurisdiction and
8 venue, or other procedural and substantive defects. Plaintiff has been advised repeatedly that
9 venue is improper in these districts (other than the Middle District of Alabama), yet Plaintiff
10 persists in filing similar lawsuits. Faced with yet another of these lawsuits, District Judge Mahan
11 entered an order on February 2, 2018, in case 2:17-cv-2873-JCM-VCF, declaring Plaintiff to be a
12 vexatious litigant under 28 U.S.C. § 1651(a), and enjoined and prohibited Plaintiff from filing any
13 new complaint, petition or other action in this court without first obtaining leave from the Chief
14 Judge of this court. The order stated that the clerk is authorized to reject, refuse to file, and discard
15 any new complaint, petition or other new action in violation of this order. *See Lietzke v. City of*
16 *Montgomery*, 2:17-cv-2873-JCM-VCF, 2018 WL 702889 (D. Nev. Feb. 2, 2018).

17 Plaintiff did not obtain leave from the Chief Judge to file this action. In addition, this case,
18 like his others, is not properly venued in Nevada and it appears jurisdiction is lacking. For these
19 reasons, Plaintiff's application to proceed IFP should be denied and the action dismissed.

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RECOMMENDATION

IT IS HEREBY RECOMMENDED that the District Judge enter an order **DENYING** Plaintiff's application to proceed IFP (ECF No. 1), and **DISMISSING** this action.

The Plaintiff should be aware of the following:

1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to this Report and Recommendation within fourteen days of being served with a copy of the Report and Recommendation. These objections should be titled "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points and authorities for consideration by the district judge.

2. That this Report and Recommendation is not an appealable order and that any notice of appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed until entry of judgment by the district court.

Dated: December 12, 2019.



William G. Cobb
United States Magistrate Judge